



## Wyoming Lender Alert

100 East B Street, Room 4001 Federal Building, P.O. Box 2839,  
Casper, Wyoming 82602-2839

Tel: (307) 261-6500 Fax: (307) 261-6535 TDD: (307) 261-6527 Web: [www.sba.gov/wy](http://www.sba.gov/wy)

August 2004

Steven Despain, District Director

*Making a Difference for Small Business in Wyoming*



Stephen E. Parker,  
Team Leader, Portfolio Management

### Streamlined Loan Servicing

The Small Business Administration (SBA) concluded that a substantial percentage of Fresno's servicing actions involve documenting or responding to actions that SBA has delegated to 7(a) lenders or Certified Development Companies (CDCs). As such, these actions should not require either notification to or a response from SBA.

SBA will judge the servicing after the fact and only when called upon to honor the guaranty or a review of lender's procedures. *Fresno will no longer review, acknowledge, stamp, notate or take any other servicing action on actions delegated to lenders.*

To make it clear that Lenders must not notify SBA or seek SBA approval on "non-substantial" servicing actions within a Lender's unilateral authority, when they take such actions, SBA has delegated to certain lenders and which lenders have been granted unilateral authority to take certain actions.

**STEPHEN E. PARKER**

Stephen E. Parker  
Team Leader  
Portfolio Management  
[Stephen.parker@sba.gov](mailto:Stephen.parker@sba.gov)

### Actions that Lenders Should *Not* Submit to SBA

#### Unilateral Actions by Lenders for LowDoc Loans:

1. Correct obvious typographical errors.
2. Provide payoff figures to borrowers.
3. Modify financial statement requirements.
4. Defer principal and/or interest payments.
5. Release collateral up to cumulative value of 20% of original loan amount.
6. Substitute collateral.
7. Subordinate to third party senior lien.
8. Change life or hazard insurance requirements.
9. Adjust loan installment amounts.
10. Make loans that do not adversely affect the collateral.
11. Approve change in borrower's form of organization.
12. Adjust management covenants.
13. Accept prepayments.
14. Extend initial disbursement period up to 6 months.

### Actions by Lender That *Require* Notification to SBA (but not approval or response by SBA)

All lenders must notify Fresno because SBA must update accounting records.

1. Loan cancellations.
2. Decreases in loan amount.
3. Changes of maturity.

4. Changes of business name and address.
5. Extensions of disbursement periods, and
6. Notice of prepayment.

### Actions that Certain Lenders Must Submit to SBA

#### Non-Delegated Actions Requiring SBA Approval

Before lenders may take certain servicing actions, they must obtain prior written approval by SBA, they must document their loan files concerning the actions taken.

#### Lenders on LowDoc Loans

1. Action that would confer a preference on the lender.
2. Compromise with any obligor for less than the full outstanding principal loan balance.
3. Release a guarantor if the loan is delinquent or liquidation is contemplated.
4. Title property in the name of SBA
5. Take title to environmentally impaired property.
6. Transfer loan to another lender.
7. Sell or pledge more than 90% of a loan.
8. Change guaranty percentage.
9. Emergency repurchase from secondary market.
10. Handle non-routine (contested) litigation or litigation with legal costs over \$5,000.

#### SBAExpress Lenders

The following actions are not delegated to SBAExpress lenders,

pursuant to the SBAExpress Program:

1. Action that would confer a preference on the lender.
2. Compromise with any obligor for less than the full outstanding principal loan balance.
3. Release a guarantor, even if actual demand has not yet been made.
4. Title property in the name of SBA.
5. Take title to environmentally impaired property.
6. Transfer a loan to another lender.
7. Sell or pledge more than 90% of a loan.
8. Change guaranty percentage.
9. Repurchase from secondary market.
10. Handle non-routine (contested) litigation or litigation with legal costs over \$5,000.
11. Increase the principal amount of the loan.
12. Disburse a loan with primary collateral having significant potential environmental risks that are proposed to be minimized by a non-standard indemnification agreement.
13. Select firms owned by officers, directors, employees or 10% or more stockholders of the lender to provide care and preservation services, legal assistance, or other liquidation services.
14. Release collateral that will be subsequently pledged for a conventional loan from the lender or any entity owned in whole or in part by the lender's officers, directors, employees, or 10% or more shareholders.

If you have any questions regarding this information, please contact SBA at 307-261-6500 or e-mail: [sbawyo@sba.gov](mailto:sbawyo@sba.gov).

### ***Ensuring Accuracy of Electronic Versions of SBA Forms***

Recently it was brought to the attention of SBA's Office of

Inspector General (OIG) that a company which supplies software to lenders to allow creation of electronic SBA forms was providing an inaccurate version of Form 912, Statement of Personal History. Form 912, which was revised in October 2003, is used, among other things, to make character and credit eligibility decisions in determining whether to guarantee or make a loan. The inaccuracies in the electronic version of the form related primarily to questions of citizenship where the check boxes were misaligned and the question was worded incorrectly. These problems were so significant that they could result in loans being provided to ineligible applicants. After learning of the inaccuracies, the company that provided the software corrected the problem and notified its clients of the correction.

SBA regulations state as follows:

Any Applicant or Participant may use computer generated SBA application forms, closing forms, and other forms designated by SBA **if the forms are exact reproductions of SBA forms.** (13 C.F.R. § 120.194; emphasis added)

In addition, the regulations governing denial of 7(a) loan guarantees provide that "SBA is released from liability on a loan guarantee (in whole or in part, within SBA's exclusive discretion), if ... the Lender has failed to use required SBA forms **or exact electronic copies** ...." 13 C.F.R. § 120.524(a)(9) (emphasis added). These provisions impose an obligation on all SBA employees whose responsibilities pertain to the 7(a) and 504 business loan programs, and to the CDCs and lenders participating in those programs, to exercise vigilance to ensure that electronic or computer-

generated forms are "exact reproductions of SBA forms." Lenders must ensure that electronic forms are accurate and any inaccuracies should be reported to the local district office or the Office of Financial Assistance. SBA Forms are available to SBA employees under "Forms" at <http://yes.sba.gov/> and to the public under "Financial Assistance Forms" at: <http://www.sba.gov/library/forms.html>

### **Money Back for Employers!**

Approximately one million employers could qualify for a refund of a previously paid Federal Tax Deposit (FTD) penalty under a plan announced by the Internal Revenue Service to encourage enrollment in the Electronic Federal Tax Payment System (EFTPS). The EFTPS-FTD penalty refund offer allows business taxpayers an opportunity to receive an automatic one-time penalty refund if they have been assessed a deposit penalty on a Form 941, Employer's Quarterly Federal Tax Return. The offer is available to employers who are not mandated to use EFTPS. To qualify for the offer, the employer must use EFTPS for one year (four consecutive quarters), make all Form 941 payments on time, and have previously fully paid the penalty. This approach is a sound business decision for both taxpayers and the government," said IRS Commissioner Mark W. Everson. "Using the electronic payment system is much more accurate and much less burdensome for taxpayers. At the same time, the government saves money because there are fewer errors, fewer notices and fewer problems."

The IRS will look back up to four quarters prior to the four-quarter compliance period for a fully paid FTD penalty to abate. Penalties paid earlier than one year prior to

the four-quarter compliance period are not eligible for the automatic offer. For additional information, contact Maura Morgan at 307-633-0919 or [maura.morgan@irs.gov](mailto:maura.morgan@irs.gov).

### **Computer Maintenance** (Continuing Informational Articles)

How to Avoid Computer Viruses - Check out [Computer Safety Online](#) for an understanding of PC viruses, worms, trojan horses and protection software.

►If you receive an e-mail attachment and the file name has multiple extensions (Examples: anything.doc.pif or anything.jpg.scr or C-A Golf Score Sheet.doc.pif), delete it immediately no matter who sent it to you and no matter what your anti-virus program says! Anti-Virus programs have been known to miss that type of virus while the file naming convention is chosen to make you think it is a Word document or picture file when in fact it's a script file ready to mess your system up as soon as you click the file. When deleting those files, press Shift-Delete and they won't go into the Recycle Bin.

►Install an anti-virus program from a company that updates virus definitions regularly and provides an on-line update facility.

►Update virus definitions a few times per week or whenever you connect to the Internet.

►Never click/run a file unless you've scanned it for viruses.

►If you are not the forgetful type, run your anti-virus program in manual mode. Then, you'll need to check every new file, no matter where it came from, to assure it is healthy. The auto mode slows the machine and at times is the cause of system problems.

►Most e-mail virus alerts are hoaxes. Before you spread a hoax or if you think you have computer virus, visit [Your Computer Tech - Virus, Hoax or Urban Legend](#) and find out for sure.

## ***SBA OFFERS FREE SMALL BUSINESS SUCCESS GUIDE***

### ***America's Small Business Resource***

The latest issue of the U.S. Small Business Administration's (SBA) *Small Business Success Magazine* is now available and offers information on the many SBA programs that are available to develop and assist small business entrepreneurs.

"In this knowledge-based economy, small business owners must learn how to compete in new ways. SBA has taken a proactive approach to education in our latest success guide and has created a user-friendly guide that is a valuable asset for small businesses today," said Wyoming District Director, Steven Despain. "Providing ready access to information is one of the most important things that SBA can do to help small businesses take full advantage of potential business opportunities. The success guide provides business information on the wide array of programs and services that SBA has available to help entrepreneurs grow and develop their businesses."

The success guide features articles on how to hire the best employees and keep them happy, low cost marketing tips, protecting your business overseas and 10 essential steps to get you started in sourcing overseas.

To receive a free copy of the new *Small Business Success Magazine*, contact the Wyoming District SBA office at (800) 776-9144, option 1 or e-mail us at [sbawyo@sba.gov](mailto:sbawyo@sba.gov).

**LENDERS** - As you are aware, SBA and the President are interested in promoting and tracking various loan categories to determine the extent of participation and the impact that small businesses are having in those areas. Two critical categories relate to International Trade and Veterans' loans because

of the increased impact on jobs that international trade loans have compared to domestic loans and the impact Veterans' loans have in the small business community. We would appreciate it if you would be sure to have your borrowers answer the critical questions, *Do you export or will this loan assist you in exporting* or *Are you a Veteran?* These questions can be found on nearly every SBA loan application and on forms submitted to the PLP Center (SBA Form 1919 and 1920). We are interested in all firms that export, no matter how small their export business may be. If your applicant answers yes, the District or the Loan Processing Center will code the loan so that we can properly assess the small business impact in the international trade and Veteran areas. Please feel free to call us if you have any questions. We appreciate your assistance in this matter. The Wyoming District office may be contacted at (800) 776-9144, ext. 1; 307-261-6506; e-mail address: [Stephen.parker@sba.gov](mailto:Stephen.parker@sba.gov).

### **Information Opportunity!!**

8(a)/Business Development Program Eligibility and Application Assistance  
**FREE** Online Information Seminar  
Join the SBA, Wyoming District Office Staff and the San Francisco, Division of Program Certification and Eligibility

- Learn about program eligibility
- Application requirements
- 8(a) Participant benefits
- Ask questions

**NO COST** to participate.

**WHEN:** Tuesday, August 10, 2004

Contact: Jeffrey Sneddon

E-Mail: [Jeffrey.Sneddon@SBA.Gov](mailto:Jeffrey.Sneddon@SBA.Gov)

Or call 307-261-6515

### **UPCOMING EVENTS**

**August 4** – Women's Roundtable Casper & Dubois  
**August 10** – Women's Roundtable Jackson  
**August 17** – Women's Roundtable Sheridan  
**August 19** – Women's Roundtable Powell  
**August 24** – Women's Roundtable Cody  
**August 31** – WNET Call – Cancelled *for Summer*